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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,533	07/24/2002	Luis Felipe Guglielmucci		8347

32529 7590 03/25/2005

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EXAMINER

LANEAU, RONALD

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/064,533

Applicant(s)

GUGLIELMUCCI, LUIS FELIPE

Examiner

Ronald Laneau

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration..
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 3627

Response to Amendment

1. The amendment filed on 11/29/04 has been entered. Claims 1-2 are canceled and new claim 3 is added.

Claim Objections

2. Claim 3 is objected to because of the following informalities:

The periods placed at the end of each paragraph are improper. Applicant needs to have a semicolon (;) inserted at the end of each said paragraph and no space should be left between the paragraphs.

In line 31, after "and", the "or line" should be --on line--

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 recites the limitation "the customer and the producer, the reproducing environment, the source channel" in lines 2, 4 and 9. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3627

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sitnik (US 6,300,880 B1) in view of Nakamura (US 6,687,378 B1).

Claim 3 will be rejected as best understood by the Examiner.

As per claim 3, a business method for sale of customized multichannel music records where the method comprises the acts: electronically create an on demand a multichannel music record taking in account the customer preferences in relation to the amount of channels at the reproducer system, the type of speaker attached to each channel, the reproducer system characteristics, the reproducing environment characteristics and customer preferences related to the use of the record and optional content available for the record (see abstract, col. 3, lines 63 to col. 4, line 26); electronically retrieve, file and apply specific customization parameters from the customer interface (col. 9, lines 6-18); electronically assemble the customized multichannel record with other multimedia data related to the content or customers preferences (col. 7, lines 45-53); deliver the customized multichannel record to the customer in an electronic way or in a physical media (col. 8, lines 29-36); electronically tune or adjust the customized multichannel record if the customer improves or change its reproducer equipment, in example adding more channels; electronically complement through an on line telecommunication network such as internet the customized multichannel record to allow its reproduction and/or to improve the richness of the record while is being played (col. 14, lines 38-65);

Sitnik does not explicitly disclose a multichannel record by mixing and combining the source channels applying audio techniques including but not limited to amplification,

Art Unit: 3627

attenuation, phase correction, equalization, and filtering but Nakamura is cited to show that the concept of creating a new multichannel record by mixing and combining the source channels applying audio techniques including but not limited to amplification; attenuation, phase correction, equalization, and filtering to fit a previous selection of preferences defined by the customer for at least the number of channels, type of speaker attached to each channel, the reproducer system characteristics, the reproducing environment characteristics and customer preferences related to the use of the record and optional content available for the record; electronically retrieve, file and apply specific customization parameters from the customer music reproduction device (see figs. 2-9).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the mixing and combining the source channels as taught by Nakamura into the system of Sitnik because it would improve the sound quality and the sound image perceived by those who are sitting in the room where the sound is being reproduced. Neither Sitnik nor Nakamura discloses reproducing on-line the on demand created multichannel music record at the customer site but it is old and well known in the art that the reproduction is done either online or offline and at the customer's site for example in a car as disclosed by Nakamura. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the combined system of Sitnik and Nakamura either in an on-line environment because it would open their system to the latest technology available.

Response to Arguments

7. Applicant's arguments with respect to claim 3 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ronald Laneau whose telephone number is (703) 305-3973. The examiner can normally be reached on Mon-Fri from 8:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RL

Ronald Laneau
Examiner
Art Unit 3627

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[Handwritten Signature] 3/18/05
Primary Examiner